
By: **Delegates Amedori, Bates, Boschert, Boteler, Boutin, G. Clagett, Dwyer, Eckardt, Elliott, Frank, Glassman, Hogan, Impallaria, Jennings, Kach, Kelly, McComas, McDonough, Owings, Parrott, Redmer, Rzepkowski, Shank, Sossi, Stocksdale, and Walkup**

Introduced and read first time: February 7, 2003

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Murder in the First Degree - Requirement for State to Seek the Death**
3 **Penalty - Dawn's Law**

4 FOR the purpose of requiring the State to seek the death penalty in any prosecution
5 for murder in the first degree that meets certain requirements unless the
6 victim's family indicates to the State that the family does not want the State to
7 seek the death penalty; providing that certain defendants found guilty of
8 murder in the first degree may be sentenced to imprisonment for life without
9 the possibility of parole if the victim's family indicates to the State that the
10 family does not want the State to seek the death penalty; providing for the
11 application of this Act; and generally relating to the death penalty prosecutions
12 for murder in the first degree.

13 BY repealing and reenacting, with amendments,
14 Article - Criminal Law
15 Section 2-201, 2-203, and 2-304(a)
16 Annotated Code of Maryland
17 (2002 Volume)

18 BY repealing and reenacting, without amendments,
19 Article - Criminal Law
20 Section 2-202
21 Annotated Code of Maryland
22 (2002 Volume)

23 BY adding to
24 Article - Criminal Law
25 Section 2-202.1
26 Annotated Code of Maryland
27 (2002 Volume)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Criminal Law**

4 2-201.

5 (a) A murder is in the first degree if it is:

6 (1) a deliberate, premeditated, and willful killing;

7 (2) committed by lying in wait;

8 (3) committed by poison; or

9 (4) committed in the perpetration of or an attempt to perpetrate:

10 (i) arson in the first degree;

11 (ii) burning a barn, stable, tobacco house, warehouse, or other
12 outbuilding that:

13 1. is not parcel to a dwelling; and

14 2. contains cattle, goods, wares, merchandise, horses, grain,
15 hay, or tobacco;

16 (iii) burglary in the first, second, or third degree;

17 (iv) carjacking or armed carjacking;

18 (v) escape in the first degree from a State correctional facility or a
19 local correctional facility;

20 (vi) kidnapping under § 3-502 or § 3-503(a)(2) of this article;

21 (vii) mayhem;

22 (viii) rape;

23 (ix) robbery under § 3-402 or § 3-403 of this article;

24 (x) sexual offense in the first or second degree;

25 (xi) sodomy; or

26 (xii) a violation of § 4-503 of this article concerning destructive
27 devices.

28 (b) (1) A person who commits a murder in the first degree is guilty of a
29 felony and on conviction shall be sentenced to:

- 1 (i) death;
- 2 (ii) imprisonment for life without the possibility of parole; or
- 3 (iii) imprisonment for life.

4 (2) Unless a sentence of death is imposed in compliance with [§ 2-202]
5 §§ 2-202 AND 2-202.1 of this subtitle and Subtitle 3 of this title, or a sentence of
6 imprisonment for life without the possibility of parole is imposed in compliance with
7 § 2-203 of this subtitle and § 2-304 of this title, the sentence shall be imprisonment
8 for life.

9 2-202.

10 (a) A defendant found guilty of murder in the first degree may be sentenced to
11 death only if:

12 (1) at least 30 days before trial, the State gave written notice to the
13 defendant of:

- 14 (i) the State's intention to seek a sentence of death; and
- 15 (ii) each aggravating circumstance on which the State intends to
16 rely;

17 (2) (i) with respect to § 2-303(g) of this title, except for § 2-303(g)(1)(i)
18 and (vii) of this title, the defendant was a principal in the first degree; or

19 (ii) with respect to § 2-303(g)(1)(i) of this title, a law enforcement
20 officer, as defined in § 2-303(a) of this title, was murdered and the defendant was:

- 21 1. a principal in the first degree; or
- 22 2. a principal in the second degree who:
- 23 A. willfully, deliberately, and with premeditation intended
24 the death of the law enforcement officer;
- 25 B. was a major participant in the murder; and
- 26 C. was actually present at the time and place of the murder;
27 and

28 (3) the sentence of death is imposed in accordance with § 2-303 of this
29 title.

30 (b) (1) In this subsection, a defendant is "mentally retarded" if:

31 (i) the defendant had significantly below average intellectual
32 functioning, as shown by an intelligence quotient of 70 or below on an individually
33 administered intelligence quotient test and an impairment in adaptive behavior; and

1 (ii) the mental retardation was manifested before the age of 22
2 years.

3 (2) A defendant may not be sentenced to death, but shall be sentenced to
4 imprisonment for life without the possibility of parole subject to the requirements of §
5 2-203(1) of this subtitle or imprisonment for life, if the defendant:

6 (i) was under the age of 18 years at the time of the murder; or

7 (ii) proves by a preponderance of the evidence that at the time of
8 the murder the defendant was mentally retarded.

9 2-202.1.

10 THE STATE SHALL SEEK A SENTENCE OF DEATH IN EACH PROSECUTION FOR
11 MURDER IN THE FIRST DEGREE THAT MEETS THE REQUIREMENTS OF § 2-202(A) OF
12 THIS SUBTITLE UNLESS THE VICTIM'S FAMILY INDICATES IN WRITING THAT THE
13 FAMILY DOES NOT WANT THE STATE TO SEEK THE DEATH PENALTY.

14 2-203.

15 A defendant found guilty of murder in the first degree may be sentenced to
16 imprisonment for life without the possibility of parole only if:

17 (1) (I) IN THE CASE OF A DEFENDANT WHO IS NOT DISQUALIFIED
18 FROM IMPOSITION OF A DEATH SENTENCE UNDER § 2-202(B) OF THIS SUBTITLE, THE
19 VICTIM'S FAMILY INDICATES IN WRITING THAT THE FAMILY DOES NOT WANT THE
20 STATE TO SEEK THE DEATH PENALTY; AND

21 (II) at least 30 days before trial, the State gave written notice to the
22 defendant of the State's intention to seek a sentence of imprisonment for life without
23 the possibility of parole; and

24 (2) the sentence of imprisonment for life without the possibility of parole
25 is imposed in accordance with § 2-304 of this title.

26 2-304.

27 (a) (1) If the State gave notice under [§ 2-203(1)] § 2-203(1)(II) of this title,
28 but did not give notice of intent to seek the death penalty under § 2-202(a)(1) of this
29 title, the court shall conduct a separate sentencing proceeding as soon as practicable
30 after the defendant is found guilty of murder in the first degree to determine whether
31 the defendant shall be sentenced to imprisonment for life without the possibility of
32 parole or to imprisonment for life.

33 (2) If the State gave notice under both §§ 2-202(a)(1) and [2-203(1)]
34 2-203(1)(II) of this title, but the court or jury determines that the death sentence may
35 not be imposed, that court or jury shall determine whether the defendant shall be
36 sentenced to imprisonment for life without the possibility of parole or to
37 imprisonment for life.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
2 construed to apply only prospectively and may not be applied or interpreted to have
3 any effect on or application to any prosecution for murder in the first degree in which
4 the State's written notice of its intention in the prosecution of the case is given to the
5 defendant before the effective date of this Act.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2003.